**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO. 1346 OF 2007**

Aslam Gulam Gaus Kekan & Anr. ...Petitioners
vs.
Bhiwandi Nizampur City Municipal Corporation ...Respondent

Mr.S.D.Patil for the Petitioner
Mr.Nitin Jamdar for the Respondent.

**CORAM: A.S.OKA,J.**
**DATE : APRIL 4,2007.**

**P.C.:**

1. Heard Advocate for the Petitioner and the Advocate for the Respondent-Corporation. The Petitioner is the original Plaintiff. The case of the Petitioner is that he has constructed House No.43 on a land bearing city survey No.116. The suit is filed for challenging the notices dated 12th December 2006 and 6th January 2007. The prayer is for for perpetual injunction restraining the Respondent-Corporation from demolishing the House no.43 on land bearing, C.T.S. No.116 at Nizampur, Bhiwandi without following due process of law. An application for temporary injunction made at Exh.5 was rejected by the Trial Court. The order impugned dated 23rd February 2007 has been passed in an Appeal preferred by the Petitioner.

2. In paragraph 8 of the impugned Judgment and Order, the learned Additional District Judge recorded a statement of the learned Counsel for the Respondent that the Respondent-Corporation will not demolish the construction on C.T.S.No.116. The learned Judge has recorded that the Appeal

deserves to be dismissed with a direction to the Respondent-Corporation that they shall not demolish any other construction belonging to the Petitioners without due process of law beyond the illegal construction described in notice dated 12th December 2006. The learned Judge has reproduced the description of the illegal construction described in the said notice dated 12th December 2006 i.e. construction on C.T.S.No.119 admeasuring 10’ x 6’ on the space admeasuring 8’ x 33’ in between House No.39 and House No.43/1 made up of bricks and cement having roof of cement sheet. It is thus obvious that the said construction was not protected by the learned Additional District Judge as the construction is on the C.T.S.No.119 in between House no.39 and House No.43/1. The relief claimed by the Petitioner is in respect of the offending structure on C.T.S.No.116. A categorical statement recorded by the Appellate Court is that the structure on the C.T.S.NO.116 will not be demolished on the basis of impugned notice without following the due process of law. The learned Judge has specifically recorded that the Respondent-Corporation shall not demolish any construction other than the construction mentioned in notice dated 12th December 2006. Thus, in so far as the structure on C.T.S.No.116 is concerned, the same can be demolished by the Respondent only after following the due process of law.

2. In view of what is stated above, no case is made out for interference with the impugned order. Writ Petition is disposed of.

**JUDGE**